

AFFIDAVIT IN SUPPORT OF APPLICATION FOR SEARCH WARRANT

State of New York)
County of Monroe) SS:
City of Rochester)

JOHN T. DENZ, being duly sworn, deposes and states:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (FBI), and have served in this capacity for approximately nine months. I am currently assigned to the Joint Terrorism Task Force (JTTF), Buffalo Division, in Rochester, New York. At the JTTF, I work with a team of federal, state, and local law enforcement agents and officers on investigations relating to domestic and international terrorism. During my tenure with the FBI, I have also attended intensive training on counterterrorism and other types of investigations, including counterintelligence, white collar crime, public corruption, organized crime, and narcotics. I am familiar with digital evidence commonly possessed and used by those involved in criminal activities. I have also conferred with other FBI Special Agents who have expertise and experience in counterterrorism investigations and digital evidence. As a Special Agent with the FBI, I am a “[f]ederal law enforcement officer” within the meaning of Rule 41(a)(2)(C) of the Federal Rules of Criminal Procedure, that is, a government agent engaged in the enforcement of the criminal laws of the United States and thereby authorized to request the issuance of federal search and seizure warrants.

2. The FBI is an agency within the executive branch of the government of the United States and is responsible for investigating alleged violations of federal criminal law, including, *inter alia*, violations of 18 U.S.C § 2101(a) (riots).

3. I make this affidavit in support of an application under Rule 41 of the Federal Rules of Criminal Procedure for a search warrant authorizing the examination of property – specifically, a black Samsung Galaxy cellular telephone, Model Number SM-J260A, bearing serial number RF8M72B70JJ and IMEI 357177101420177, described in Attachment A (hereinafter, “**Subject Cell Phone**”) – which is currently in the possession of the FBI, and the extraction from that property of electronically stored information described in Attachment B. The **Subject Cell Phone** is currently being stored in a locked evidence drawer at the offices of the FBI at 1200 Scottsville Road, Rochester, New York.

4. The assertions made herein are based on my personal knowledge and information I have received from this investigation, including information from several law enforcement officers and agents assigned to the Rochester Joint Terrorism Task Force (JTTF), records from Facebook, and information from public databases, all of which are true and correct to the best of my knowledge and belief. Further, I have had discussions with law enforcement officers involved in this investigation who have confirmed the accuracy of the information contained within this affidavit. Since this affidavit is being submitted for a limited purpose, I have not included each and every fact that I know concerning this investigation. Rather, I have set forth only the facts that I believe are necessary to establish probable cause to obtain the requested search warrant.

5. Based on my training and experience, and the facts set forth in this affidavit, there is probable cause to believe that RYAN HOWE a/k/a Rylea Autumn has committed a violation of 18 U.S.C. § 2101(a). Section 2101(a) provides, in pertinent part, that “[w]hoever . . . uses any facility of interstate or foreign commerce, including but not limited to, the mail, telegraph, telephone, radio, or television, with intent (1) to incite a riot; or (2) to organize, promote, encourage, participate in, or carry on a riot; or (3) to commit any act of violence in furtherance of a riot; or (4) to aid or abet any person in inciting or participating in or carrying on a riot or

committing any act of violence in furtherance of a riot; and who either during the course of any such . . . use or thereafter performs or attempts to perform any other overt act for any purpose specified in subparagraph [(1), (2), (3), or (4)] of this paragraph . . . shall be fined under this title or imprisoned not more than five years or both.” There is probable cause to search the **Subject Cell Phone** described in Attachment A for evidence, contraband and fruits of this crime, as described in Attachment B.

IDENTIFICATION OF PROPERTY TO BE SEARCHED

6. The property to be searched consists of the **Subject Cell Phone**, which was seized as evidence incident to the arrest of RYAN HOWE on or about September 25, 2020, and which has been securely stored and maintained in FBI custody since its seizure.

FACTS ESTABLISHING PROBABLE CAUSE

FBI INVESTIGATION OF HOWE

7. RYAN HOWE is a 27-year old white male. He is a United States citizen, who until recently resided at 172 West Main Street, Apartment No. 1, Rochester, New York. As detailed herein, HOWE has expressed anti-law enforcement sentiment and self-identifies as an Anti-Fascist. Furthermore, HOWE has demonstrated an anarchist ideology.

8. On September 2, 2020, HOWE was arrested by the Rochester Police Department (RPD) for inciting a riot and resisting arrest. The arrest stemmed from HOWE’s involvement in protests in Rochester relating to the death of Daniel Prude, who died in March 2020, one week after an encounter with RPD officers. Specifically, HOWE approached metal barricades surrounding the Public Safety Building (PSB) in Rochester, picked up the metal barricades and slammed them down. HOWE also shook the barricades and screamed in an apparent effort to agitate approximately 40 other protesters who were present at the PSB. When the police

attempted to arrest HOWE, he pulled away from the officers, wrapped himself around a street sign and refused to let go. After being freed from the sign, HOWE kicked and moved his body to avoid being handcuffed. RPD reports documented HOWE's home address as 172 West Main Street Apartment No. 1, Rochester, New York.

9. On September 8, 2020, the Monroe County Sheriff's Office shared information that HOWE espouses beliefs consistent with Antifascist (ANTIFA) ideology on his Facebook page, www.facebook.com/rylea.howe.50, which has a user name of "Rylea Autumn" (hereinafter, "HOWE's Facebook page"). HOWE's Facebook page included references to several ANTIFA images and symbols, including a profile picture banner stating, "Antifascist Action," a profile picture of HOWE dressed in all black with a helmet and goggles (which is consistent with the physical appearance of ANTIFA adherents), a circle with the letter "A" which represents anarchy, and the profile synopsis under the profile picture which states "Anti-Fascist" and "Anarcho-communist."

10. On or about March 13, 2020, police officers from the Louisville (Kentucky) Metro Police Department executed a search warrant at the apartment of Breonna Taylor. During the search warrant, there was an exchange of gunfire between an occupant of Ms. Taylor's apartment and the officers. Ms. Taylor was shot and killed during the incident. On September 23, 2020, the Kentucky Attorney General announced that a grand jury had declined to indict the officers in relation to Ms. Taylor's death. In the wake of this announcement, some members of the public – including individuals and groups in Rochester – expressed their outrage at the decision, and declared their intention to protest in the evening of September 24, 2020. Through social media, some of these individuals also expressed a desire to burn the city down in response to the grand jury's decision. For example, one Facebook user stated, "So I say Fuck 12 [meaning the police]! Burn that shit down! Yes I said it!!!" In response to the post, another Facebook user posted,

“BURN IT ALL TF [meaning “the fuck”] DOWN”, and another Facebook user posted, “Justified in burning it ALL down!!!!”

11. On September 23, 2020, HOWE’s Facebook page was used to post a reference to an article from the Huffington Post entitled, “No Cops Charged With Murder In The Killing Of Breonna Taylor.” Along with the reference to the article, HOWE’s Facebook page was used to post a message reading, “Burn this shit to the fucking ground.”

12. On September 24, 2020, at approximately 8:32 a.m., HOWE’s Facebook page was used to post a Facebook message that consisted of a recipe for a Molotov cocktail and guidance on how to use one against the police. Specifically, the Facebook post read as follows,

- 1 part gasoline
- 1 part used motor oil
- 1 part crushed Styrofoam
- Mix until the consistency of a thick paste
- Place in glass containers
- Soak rag in gasoline, tie a knot in the end just big enough to fit through the hole of the bottle, but won’t rip out.
- Light wick
- Aim at cop
- Throw

13. Later on September 24, 2020, HOWE’s Facebook page was used to post another message, which read, “Good morning to everyone ready to burn this whole fuckin country to the ground!”

14. On September 24, 2020, at approximately 4:48 p.m., HOWE’s Facebook page was used to post an animated image (commonly referred to as an “emoji”) which depicted a smiley face holding what appeared to be a flaming Molotov cocktail.

15. In the evening on September 24, 2020, FBI Special Agent Timothy Klapec and FBI Task Force Officer (TFO) Michael Turton interviewed HOWE outside his residence at 172 West Main Street. During the interview, Special Agent Klapec and TFO Turton showed HOWE

a copy of the Facebook post from earlier in the day that contained the recipe for a Molotov cocktail and guidance for using it against the police (referenced in ¶ 12, above). HOWE admitted to making the Facebook post as an emotional response to perceived excessive use of force by the police nationwide. HOWE stated that he wanted the post to be something edgy that would generate a response. HOWE acknowledged that he was of clear mind when he made the post and was not under the influence of drugs or alcohol. HOWE stated he obtained the instructions for making a Molotov cocktail from "The Anarchist Cookbook" (which is widely available on the Internet). HOWE further stated the Facebook post was a mistake, and that he deleted the post after he received a notification from Facebook that the post violated the terms of use agreement. HOWE expressed a desire for law enforcement to be defunded and ultimately abolished, but did not wish to see anyone harmed in the process.

16. On September 25, 2020, the Honorable Mark W. Pedersen, United States Magistrate Judge, issued Criminal Complaint No. 20-MJ-4198, which charged HOWE with a violation of 18 U.S.C. § 2101(a) (riots), and an accompanying arrest warrant. Later that day, the FBI arrested HOWE outside his residence at 172 West Main Street, Apartment No. 1, Rochester, New York. At the time of the arrest, I seized the **Subject Cell Phone** from HOWE's hand. HOWE did not have any other cell phones in his possession at the time of his arrest. I relinquished custody of the **Subject Cell Phone** to FBI Special Agent Colin Barrett, who secured and maintained custody of the **Subject Cell Phone**. Since that time, the **Subject Cell Phone** has been secured in a locked evidence drawer at the offices of the FBI.

USE OF CELL PHONE BY HOWE

17. As detailed above, HOWE has used Facebook to post messages and images (including messages and images relating to Molotov cocktails and using them against law enforcement), and to communicate with others. At the time of his interview and arrest, HOWE

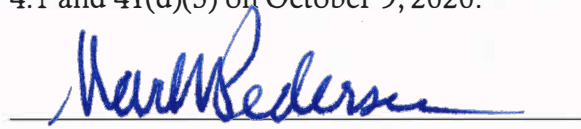
was unemployed and sleeping on the floor of a friend's apartment. Based on HOWE's financial situation, I believe that it is unlikely he had additional electronic devices and it is likely that the **Subject Cell Phone** was his only electronic device. Therefore, I further believe that the **Subject Cell Phone** is the device that was used by HOWE to, among other things, post the above-referenced messages on his Facebook account and to research the recipe for a Molotov cocktail in "The Anarchist's Cookbook."

CONCLUSION

18. Based on the above, and upon my training and experience, I believe that probable cause exists to believe that the **Subject Cell Phone** contains information that constitutes records, fruits, instrumentalities, and evidence of a crime, to wit, a violation of 18 U.S.C. § 2101(a) (riots), including the specific information and data set forth in Attachment B, Schedule of Items to be Seized. Accordingly, it is respectfully requested that the Court issue a warrant authorizing law enforcement officers to search the **Subject Cell Phone**, as described in Attachment A, for evidence of the above violations, as set forth in Attachment B, Schedule of Items to be Seized.


JOHN T. DENZ
Special Agent
FBI

Affidavit for Search Warrant submitted electronically by email in .pdf format. Oath administered and contents and signature attested to me as true and accurate telephonically pursuant to Fed. R. Crim. P. 4.1 and 41(d)(3) on October 9, 2020.


HONORABLE MARK W. PEDERSEN
United States Magistrate Judge
Western District of New York